

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2006

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.5817 of 2004

P.Shanmugam Pillai

.. Petitioner

Versus

The State of Tamil Nadu,
rep. by its Secretary, Commercial Department,
Fort St. George,
Chennai.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India as stated therein.

For Petitioner : Mr.M.Arumugam

For Respondent : Mr.C.Thirumaran
Government Advocate

O R D E R

The Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records in connection with the impugned order passed by the respondent herein in G.O.(D) No. 204, Commercial Tax Department, dated 5.9.2003, quash the same and to allow the petitioner herein for writing the documents in Sub-Registrar Office at Ulundurpettai.

2.Heard the learned counsel for the petitioner as well as for the respondent.

The brief facts of the case, as stated by the petitioner, are as follows :-

3.The petitioner is an Ex-Village munsif (Ex-Karnam). From the year, 1982, since the Government of Tamil Nadu had taken steps to remove the Village Karnams, the petitioner has been facing great

difficulty in maintaining his family, as he had no other source of income. Therefore, Ex-Karnams had approached the Tamil Nadu Government in the year, 1983, for their rehabilitation and for pension for those who had retired from service. In the year, 1989, the Government of Tamil Nadu had promulgated an ordinance by which all the Ex-Karnams were to be appointed as Panchayat Assistants on a pay scale of Rs.350/- per month, on temporary basis. Pursuant to the said ordinance, the petitioner was appointed as Panchayat Assistant, from 1.1.1990 and retired from service, on 31.8.2000. However, from the year, 1984, the petitioner has been writing documents in the Sub-Registrar Office, Ulundurpettai, under a Licence No.C87/KLC/84 of 1984. In the year, 2001, the District Registrar in-charge, Virudhachalam District, had come for an inspection. After inspecting the documents, he had stated that the licence issued to all the Ex-Karnams would be cancelled or suspended, if they were employed as Panchayat Assistants. In view of the fact that the licences of document writers were cancelled, the Ex-Karnams, who were aggrieved by the said orders, had filed a writ petition before this Court in W.P.No.21223 of 1992, and also had obtained an order of interim stay against the impugned order in W.P.M.P.No.30594 of 1992 in W.P.No.21223 of 1992. Following the interim order passed by this Court, the petitioner continued to write documents in the said Sub-Registrar Office, Ulundurpettai. On 9.5.2001, when the District Registrar, Villupuram District, had come for an inspection, he had found that the petitioner had not maintained the necessary records and the receipts, after 23.10.2000. The petitioner had explained stating that he was unwell and therefore, he could not maintain the records, after 23.10.2000. Therefore, the petitioner had prayed for time, on 9.5.2001, to complete the records. However, the petitioner was issued a show cause notice by the District Registrar of Virudhachalam District, through the Sub-Registrar, Ulundurpettai, asking him as to why the petitioner's documentary writers licence No.C87/KLC/84 of 1984 should not be cancelled. Though the petitioner had given reasons and had explained his position, his explanation was not accepted. Thereafter, the cancellation order was issued. The petitioner had appealed to the Registrar General of Tamil Nadu, Chennai. However, without considering the appeal on merits, the Registrar General of Tamil Nadu had confirmed the order passed by the District Registrar of Virudhachalam District. Thereafter, the petitioner had appealed to the Government of Tamil Nadu. However, the Government of Tamil Nadu had passed G.O.(D) No.204, Commercial Tax Department, dated 5.9.2003, rejecting the appeal filed by the petitioner. Hence, the petitioner has preferred the present writ petition, challenging the order passed by the Government in G.O.(D) No. 204, Commercial Tax Department, dated 5.9.2003.

4.The learned counsel appearing on behalf of the petitioner had submitted that the cancellation of the documents writers licence of the petitioner is arbitrary, illegal and invalid in law, since it has been issued without following the procedures established by law and without following the principles of natural justice.

5.On the contrary, the learned Government Advocate appearing on behalf of the respondent had pointed out that the orders cancelling the licence of the petitioner was in accordance with law and there is nothing arbitrary in the exercise of the powers vested with the concerned authority.

6.At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the petitioner had submitted that the petitioner is an aged person and that he has no other source of income to maintain himself and the members of his family and that he has also suffering due to ill-health. In such circumstances, it was pleaded that the petitioner may be permitted to submit a detailed representation to the respondent, which may be considered within a time frame, fixed by this Court.

7.The learned Government Advocate appearing on behalf of the respondent has no objection in permitting the petitioner to submit such a representation.

8.In such circumstances, the petitioner is permitted to submit his representation to the respondent giving all the necessary details, within a period of two weeks from the date of receipt of a copy of this order, and on receipt of such representation, the respondent is directed to dispose of the same, on merits and in accordance with law, within a period of six weeks thereafter.

9.With the above directions, the writ petition is disposed of. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

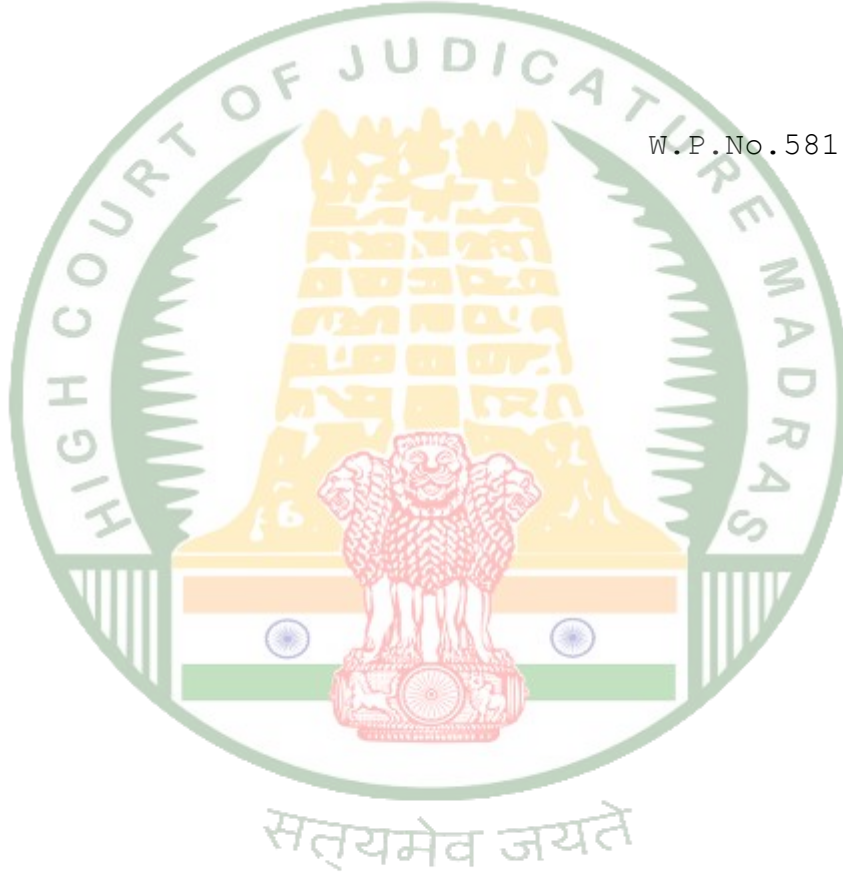
The Secretary, Commercial Tax Department,
Fort St. George, Chennai.

+1cc to Mr.M.Arumugam, Advocate Sr 62744

+1cc to Govt.Pleader Sr 62631

AVM (CO)
km/1.3.

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